



General Assembly

January Session, 2001

Committee Bill No. 5585

LCO No. 3366

Referred to Committee on General Law

Introduced by:
(GL)

***AN ACT AUTHORIZING THE USE OF TRANSACTION SCAN DEVICES
BY SELLERS OF ALCOHOLIC LIQUOR AND TOBACCO.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 30-86 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) As used in this section:

4 (1) "Cardholder" means any person who presents a driver's license
5 or an identity card to a permittee, permittee's agent or employee of a
6 permittee, to purchase or receive alcoholic liquor from such permittee,
7 permittee's agent or employee;

8 (2) "Identity card" means a government-issued identification card
9 issued in accordance with the provisions of section 1-1h;

10 (3) "Transaction scan" means the process by which a permittee,
11 permittee's agent or employee of a permittee checks, by means of a
12 transaction scan device, the validity of a driver's license or an identity
13 card that is presented as a condition for purchasing or receiving
14 alcoholic liquor; and

15 (4) "Transaction scan device" means any commercial device or
16 combination of devices used at a point of sale that is capable of
17 deciphering in an electronically readable format the information
18 encoded on the magnetic strip or bar code of a driver's license or an
19 identity card.

20 (b) Any permittee or any servant or agent of a permittee who sells
21 or delivers alcoholic liquor to any minor, or to any intoxicated person,
22 or to any habitual drunkard, knowing the person to be such an
23 habitual drunkard, shall be subject to the penalties of section 30-113.
24 Any person who sells, ships, delivers or gives any such liquors to such
25 minor, by any means, including, but not limited to, the Internet or any
26 other on-line computer network, except on the order of a practicing
27 physician, shall be fined not more than one thousand five hundred
28 dollars or imprisoned not more than eighteen months, or both. The
29 provisions of this section shall not apply (1) to a sale, shipment or
30 delivery made to a person over age eighteen who is an employee or
31 permit holder under section 30-90a and where such sale, shipment or
32 delivery is made in the course of such person's employment or
33 business, (2) to a sale, shipment or delivery made in good faith to a
34 minor who practices any deceit in the procurement of an identity card
35 issued in accordance with the provisions of section 1-1h, who uses or
36 exhibits any such identity card belonging to any other person or who
37 uses or exhibits any such identity card that has been altered or
38 tampered with in any way, or (3) to a shipment or delivery made to a
39 minor by a parent, guardian or spouse of the minor, provided such
40 parent, guardian or spouse has attained the age of twenty-one and
41 provided such minor possesses such alcoholic liquor while
42 accompanied by such parent, guardian or spouse.

43 (c) (1) A permittee, permittee's agent or employee of a permittee
44 may perform a transaction scan by means of a transaction scan device
45 to check the validity of a driver's license or identity card presented by
46 a cardholder as a condition for selling, giving away or otherwise
47 distributing to the cardholder alcoholic liquor.

48 (2) If the information deciphered by the transaction scan performed
49 under subdivision (1) of this subsection fails to match the information
50 printed on the driver's license or identity card presented by the
51 cardholder, or if the transaction scan indicates that the information so
52 printed is false or fraudulent, neither the permittee nor any permittee's
53 agent or employee of the permittee shall sell, give away or otherwise
54 distribute any alcoholic liquor to the cardholder.

55 (3) Subdivision (1) of this subsection does not preclude a permittee,
56 permittee's agent or employee of a permittee from using a transaction
57 scan device to check the validity of a document other than a driver's
58 license or an identity card, if the document includes a bar code or
59 magnetic strip that may be scanned by the device, as a condition for
60 selling, giving away or otherwise distributing alcoholic liquor to the
61 person presenting the document.

62 (d) (1) No permittee, permittee's agent or employee of a permittee
63 shall electronically or mechanically record or maintain any information
64 derived from a transaction scan, except the following: (A) The name
65 and date of birth of the person listed on the driver's license or identity
66 card presented by a cardholder; (B) the expiration date and
67 identification number of the driver's license or identity card presented
68 by a cardholder.

69 (2) No permittee, permittee's agent or employee of a permittee shall
70 use a transaction scan device for a purpose other than the purpose
71 specified in subsection (c) of this section.

72 (3) No permittee, permittee's agent or employee of a permittee shall
73 sell or otherwise disseminate the information derived from a
74 transaction scan to any third party, including, but not limited to,
75 selling or otherwise disseminating that information for any marketing,
76 advertising or promotional activities, but a permittee, permittee's agent
77 or employee of a permittee may release that information pursuant to a
78 court order.

79 (4) Nothing in subsection (c) of this section or this subsection
80 relieves a permittee, permittee's agent or employee of a permittee of
81 any responsibility to comply with any other applicable state or federal
82 laws or rules governing the sale, giving away or other distribution of
83 alcoholic liquor.

84 (5) Any person who violates this subsection shall be subject to a civil
85 penalty of not more than one thousand dollars.

86 (e) (1) A permittee, permittee's agent or employee of a permittee
87 may not be found guilty of a charge or a violation of subsection (b) of
88 this section if the permittee, permittee's agent or employee of a
89 permittee raises and proves as an affirmative defense that all of the
90 following occurred: (A) A cardholder attempting to purchase or
91 receive alcoholic liquor presented a driver's license or an identity card;
92 (B) a transaction scan of the driver's license or identity card that the
93 cardholder presented indicated that the license or card was valid; (C)
94 the alcoholic liquor was sold, given away or otherwise distributed to
95 the cardholder in reasonable reliance upon the identification presented
96 and the completed transaction scan.

97 (2) In determining whether a permittee, permittee's agent or
98 employer of a permittee has proven the affirmative defense provided
99 by subdivision (1) of this subsection, the trier of fact in the action for
100 the alleged violation of subsection (b) of this section shall consider that
101 reasonable reliance upon the identification presented and the
102 completed transaction scan may require a permittee, permittee's agent
103 or employee of a permittee to exercise reasonable diligence to
104 determine, and that the use of a transaction scan device does not
105 excuse a permittee, permittee's agent or employee of a permittee from
106 exercising reasonable diligence to determine the following: (A)
107 Whether a person to whom the permittee, permittee's agent or
108 employee of a permittee sells, gives away or otherwise distributes
109 alcoholic liquor is twenty-one years of age or older; and (B) whether
110 the description and picture appearing on the driver's license or identity

111 card presented by a cardholder is that of the cardholder.

112 Sec. 2. Section 53-344 of the general statutes is repealed and the
113 following is substituted in lieu thereof:

114 (a) As used in this section:

115 (1) "Cardholder" means any person who presents a driver's license
116 or an identity card to a seller, seller's agent or employee of a seller, to
117 purchase or receive tobacco from such seller, seller's agent or
118 employee;

119 (2) "Identity card" means a government-issued identification card
120 issued in accordance with the provisions of section 1-1h;

121 (3) "Transaction scan" means the process by which a seller, seller's
122 agent or employee of a seller checks, by means of a transaction scan
123 device, the validity of a driver's license or an identity card that is
124 presented as a condition for purchasing or receiving tobacco; and

125 (4) "Transaction scan device" means any commercial device or
126 combination of devices used at a point of sale that is capable of
127 deciphering in an electronically readable format the information
128 encoded on the magnetic strip or bar code of a driver's license or an
129 identity card.

130 ~~[(a)]~~ (b) Any person who sells, gives or delivers to any minor under
131 eighteen years of age tobacco, unless the minor is delivering or
132 accepting delivery in his capacity as an employee, in any form shall be
133 fined not more than two hundred dollars for the first offense, not more
134 than three hundred fifty dollars for a second offense within an
135 eighteen-month period and not more than five hundred dollars for
136 each subsequent offense within an eighteen-month period.

137 ~~[(b)]~~ (c) Any person under eighteen years of age who purchases or
138 misrepresents ~~[his]~~ such person's age to purchase tobacco in any form
139 shall be fined not more than fifty dollars for the first offense and not

140 less than fifty dollars nor more than one hundred dollars for each
141 subsequent offense.

142 (d) (1) A seller, seller's agent or employee of a seller may perform a
143 transaction scan by means of a transaction scan device to check the
144 validity of a driver's license or identity card presented by a cardholder
145 as a condition for selling, giving away or otherwise distributing to the
146 cardholder tobacco.

147 (2) If the information deciphered by the transaction scan performed
148 under subdivision (1) of this subsection fails to match the information
149 printed on the driver's license or identity card presented by the
150 cardholder, or if the transaction scan indicates that the information so
151 printed is false or fraudulent, neither the seller nor any seller's agent or
152 employee of the seller shall sell, give away or otherwise distribute any
153 tobacco to the cardholder.

154 (3) Subdivision (1) of this subsection does not preclude a seller,
155 seller's agent or employee of a seller from using a transaction scan
156 device to check the validity of a document other than a driver's license
157 or an identity card, if the document includes a bar code or magnetic
158 strip that may be scanned by the device, as a condition for selling,
159 giving away or otherwise distributing tobacco to the person presenting
160 the document.

161 (e) (1) No seller, seller's agent or employee of a seller shall
162 electronically or mechanically record or maintain any information
163 derived from a transaction scan, except the following: (A) The name
164 and date of birth of the person listed on the driver's license or identity
165 card presented by a cardholder; (B) the expiration date and
166 identification number of the driver's license or identity card presented
167 by a cardholder.

168 (2) No seller, seller's agent or employee of a seller shall use a
169 transaction scan device for a purpose other than the purpose specified
170 in subsection (d) of this section.

171 (3) No seller, seller's agent or employee of a seller shall sell or
172 otherwise disseminate the information derived from a transaction scan
173 to any third party, including, but not limited to, selling or otherwise
174 disseminating that information for any marketing, advertising or
175 promotional activities, but a seller, seller's agent or employee of a seller
176 may release that information pursuant to a court order.

177 (4) Nothing in subsection (d) of this section or this subsection
178 relieves a seller, seller's agent or employee of a seller of any
179 responsibility to comply with any other applicable state or federal laws
180 or rules governing the sale, giving away or other distribution of
181 tobacco.

182 (5) Any person who violates this subsection shall be subject to a civil
183 penalty of not more than one thousand dollars.

184 (f) (1) A seller, seller's agent or employee of a seller may not be
185 found guilty of a charge of a violation of subsection (b) of this section if
186 the seller, seller's agent or employee of a seller raises and proves as an
187 affirmative defense that all of the following occurred: (A) A cardholder
188 attempting to purchase or receive tobacco presented a driver's license
189 or an identity card; (B) a transaction scan of the driver's license or
190 identity card that the cardholder presented indicated that the license or
191 card was valid; and (C) the tobacco was sold, given away or otherwise
192 distributed to the cardholder in reasonable reliance upon the
193 identification presented and the completed transaction scan.

194 (2) In determining whether a seller, seller's agent or employee of a
195 seller has proven the affirmative defense provided by subdivision (1)
196 of this section, the trier of fact in the action for the alleged violation of
197 subsection (b) of this section shall consider that reasonable reliance
198 upon the identification presented and the completed transaction scan
199 may require a seller, seller's agent or employee of a seller to exercise
200 reasonable diligence to determine, and that the use of a transaction
201 scan device does not excuse a seller, seller's agent or employee of a
202 seller from exercising reasonable diligence to determine the following:

203 (A) Whether a person to whom the seller, seller's agent or employee of
204 a seller sells, gives away or otherwise distributes tobacco is eighteen
205 years of age or older; and (B) whether the description and picture
206 appearing on the driver's license or identity card presented by a
207 cardholder is that of the cardholder.

Statement of Purpose:

To fight underage drinking and smoking by authorizing sellers of alcoholic liquor or tobacco products to use a transaction scan device to check the validity of a driver's license or identity card presented as a condition of purchasing such alcoholic liquor or tobacco products.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: REP. DOYLE, 28th Dist.; SEN. CIOTTO, 9th Dist.
SEN. CAPPIELLO, 24th Dist.